



MEMO ENDORSED

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July 7, 2022

VIA ECF

The Honorable Valerie E. Caproni, U.S.D.J.
U.S. District Court for the
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

**Re: *Zurich Am. Ins. Co. v. Great Northern Ins. Co.*, No. 22-cv-00050
Joint Status Report and Request for an Extension of Fact Discovery and
Adjournment of the July 15, 2022 Conference on Consent of Plaintiff**

Dear Judge Caproni:

We represent Defendant Great Northern Insurance Company ("Great Northern") in the above-referenced matter. We write to the Court for two reasons.

First, pursuant to the Court's April 7, 2022 Civil Case Management Plan and Scheduling Order (the "Scheduling Order"), Great Northern and Plaintiff Zurich American Insurance Company ("Zurich") (together, the "Parties"), submit this joint letter to provide the Court with certain information regarding the status of the case ahead of the pretrial conference, currently scheduled for July 15, 2022 at 10:00 a.m. This letter contains sections that correspond with the items set forth in the Scheduling Order.

Second, pursuant to the Scheduling Order, the fact discovery deadline is July 14, 2022. In accordance with Rule 2(c) of Your Honor's Individual Practices, Great Northern respectfully requests a 45-day extension of the fact discovery deadline (i.e., until August 29, 2022) and an adjournment of the July 15, 2022 pretrial conference. These requests are made to allow additional time to complete fact discovery related to discrete issues which, as explained in greater detail below, may obviate the need for motion practice and ultimately lead to case resolution. Zurich has consented to these requests.

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As for the joint letter providing the Court with certain information regarding the status of the case, the Parties offer the following.

A. Statement of Deadlines, Due Dates, and Cut-Off Dates

The Scheduling Order currently sets the deadline for completion of fact discovery as July 14, 2022. The current deadline for completion of expert discovery is August 26, 2022. There are no other deadlines or due dates.

B. Outstanding Motions

There are no outstanding motions before the Court.

C. Status of Discovery

The parties served their initial disclosures as required by the Scheduling Order. On June 10, 2022, Zurich served its First Set of Interrogatories and Requests for Production on Great Northern. On June 16, 2022, Great Northern served its First Set of Interrogatories and Document Requests on Zurich. The Parties anticipate serving responses to written discovery demands, as part of the anticipated additional exchange of information, prior to the expiration of the requested extension of fact discovery.

D. Settlement Discussions

The Parties have maintained an open line of communication and held several discussions concerning their attempt to resolve the issues in this case without further litigation. The Parties currently dispute the identity of, and the effect of certain language contained in, the operative contractual documents that dictate the relevant insurance and indemnification obligations. If the requested extension of fact discovery is granted, the Parties expect to exchange additional information, which might result in a resolution of the outstanding issues. While the Parties do not request a settlement conference at this time, depending on the exchange of additional information, a future settlement conference may assist in the ultimate resolution of this case.

E. Anticipated Length of Trial

This case is to be a non-jury trial. If necessary, the Parties anticipate the length of trial to be two (2) days.

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F. Anticipated Motions for Summary Judgment

If at the close of fact discovery, and the further exchange of additional information, the Parties are unable to resolve the issues in this case without further litigation, the Parties anticipate filing motions for summary judgment on the issues, which would include: (1) whether Great Northern is required to provide coverage to, and defend, Zurich's insureds in the underlying personal injury litigation captioned *S.A., an infant by his m/n/g Sealema Allen and Sealema Allen individually v. New York City Housing Authority v. Ameresco, Inc. and EIA Electric, Inc.*, venued in the Supreme Court of the State of New York, Nassau County, under Index No. 152293/2019 (the "Underlying Action"); (2) the priority of coverage between the Zurich and Great Northern insurance policies; and (3) whether Zurich is entitled to reimbursement from Great Northern for the costs it has expended in the defense of its insureds in the Underlying Action.

The Parties do not anticipate filing any motions to exclude expert testimony.

G. Other Issues and/or Information

The Parties do not have any other issues they would like to address at the pretrial conference, nor do they possess any other information that may assist the Court in advancing the case to settlement or trial.

* * *

Great Northern, with Zurich's consent, respectfully requests a 45-day extension of the fact discovery deadline, from July 14, 2022 to August 29, 2022, and an adjournment of the July 15, 2022 pretrial conference. It is hoped that the additional time to complete fact discovery, related to discrete issues, will move this case towards amicable resolution or, if necessary, narrow the issues for resolution by motions for summary judgment. In addition to the information submitted above, Great Northern offers the following in support of its request.

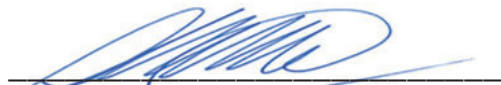
Zurich seeks a declaration that Great Northern is required to defend and indemnify its insureds as additional insureds for the claims made in the Underlying Action. The Parties currently dispute the identity of, and the effect of certain language contained in, the operative contractual documents that dictate the relevant insurance and indemnification obligations. The extension of fact discovery is requested to allow the parties to exchange additional information as to the identity and effect of the operative contractual documents, as well as the insurance policies at issue. This additional exchange will either result in a resolution of the outstanding issues and this case or will provide the Parties with the necessary information on which to file and oppose respective motions for summary judgment on the issues referenced above.

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This is the first request for an extension. The Parties do not anticipate the need for any expert discovery, so an extension as to fact discovery will not impact any other deadlines in the Court's February 8, 2022 Order (ECF No. 13). The parties are available for a pretrial conference on September 16, 23, and 30.

Thank you for your attention to this matter. Should Your Honor have any questions or concerns regarding the foregoing, please do not hesitate to contact the undersigned.

Respectfully submitted,




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Cara C. Vecchione
RIKER DANZIG LLP
Attorneys for Defendant
Great Northern Insurance Company

cc: All counsel of record (via ECF)

Application GRANTED. The fact discovery deadline is hereby ADJOURNED until August 29, 2022. Pre-Trial Conference currently scheduled for July 15, 2022, at 10:00 a.m. is hereby ADJOURNED until **August 26, 2022, at 10:00 a.m.** Pre-conference submissions are due not later than **August 18, 2022.**

The parties are advised that further requests for extensions are unlikely to be granted.

SO ORDERED.


7/7/22

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE